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DEPARTMENT OF  
WATER RESOURCES

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**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF  
WATER TO WATER RIGHTS NOS. 36-  
04013A, 36-04013B AND 36-07148 (SNAKE  
RIVER FARM); AND TO WATER RIGHTS  
NOS. 36-07083 AND 36-07568 (CRYSTAL  
SPRINGS FARM)

**IGWA'S RESPONSE TO CLEAR SPRINGS  
SUPPLEMENTAL FILING REGARDING  
DIRECTOR'S INFORMATION REQUEST**

Idaho Ground Water Appropriators, Inc. ("IGWA"), through its counsel Givens Pursley LLP and on behalf of its ground water district members (the "Ground Water Districts" or "IGWA"), hereby responds to the August 19, 2005 *Supplemental Filing Regarding Director's Request for Information* ("Supplemental Filing") submitted by Clear Springs Foods, Inc. ("Clear Springs").

Clear Springs' Supplemental Filing supports the delay of a hearing in this case to some indefinite (and presumably distant) time in the future.

IGWA wishes to reiterate that the ground water users it represents are spending large sums of money to acquire and provide replacement water to meet the Director's order in this case. Their businesses, and the communities dependent upon them, face uncertainty about

whether the spring users' legal challenges will result in orders shutting down vast areas of the Snake Plain. The continued controversy itself is a significant hardship to these ground water users and their communities, who need a reasonable degree of predictability to apply for operating loans, schedule capital investments, plant crops, project tax revenues, and establish budgets. IGWA respectfully requests that the hearing in this matter be scheduled at the earliest opportunity in 2006 to provide some certainty and resolution for all affected interests.

Clear Springs urges delay because, it says, it has "not had the opportunity to retain consultants to review and inform them regarding the complexities of the ground water model and its recalibration." Supplemental Filing at 2. However, the Department's own records demonstrate that Clear Springs' consultant Dr. Charles Brockway has from the beginning been intimately involved with the development of the ESPA ground water model and its recalibration. Dr. Brockway already should be amply informed about this subject.

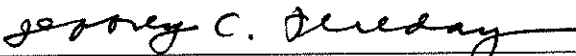
Moreover, there can be no doubt that everyone even remotely connected to the conjunctive management controversy over the past several years has had ample notice that the ESPA model was being recalibrated and would be relied on to a significant extent in analyzing any delivery call brought out of the Thousand Springs Reach. It would have behooved Clear Springs and other senior spring users who allege that they have been deprived of their water "for years" to inform themselves of this important tool and involve themselves in its development. In any event, even those who might have chosen to insulate themselves from the model's development, and thereby maintain a more removed stance from which to criticize it, should not be allowed to hold up a hearing and final decision in a matter they have initiated that has ongoing adverse impacts on their neighbors and the region.

Finally, it is curious to see Clear Springs file a delivery call seeking the *immediate* dry-up of tens of thousands of acres of irrigated farmland, obtain an emergency order on their delivery call in a few months time, and then propose to delay the hearing indefinitely. The southern Idaho economy hangs in the balance in this and related cases. The ground water users obviously recognize the need to obtain facts and prepare a case. But they are entitled to a timely resolution of this matter.

The Director should not establish an open-ended hearing schedule, and Clear Springs has provided no good reason to do so. The matter should be concluded in time for the irrigation season in 2006.

RESPECTFULLY SUBMITTED this 2<sup>nd</sup> day of September 2005.

GIVENS PURSLEY LLP

  
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## CERTIFICATE OF SERVICE

I hereby certify that on this 2<sup>nd</sup> day of September 2005, I served a true and correct copy of the foregoing by delivering it to the following individuals by the method indicated below, addressed as stated.

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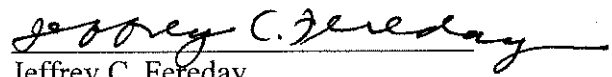
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